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Andrew Clayton, and Pamela S. Brown

UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

ROBERT D. BRADSHAW,

Plaintiff,

vs.

COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS,
NICOLE C. FORELLI, WILLIAM C.
BUSH, D. DOUGLAS COTTON,
L. DAVID SOSEBEE, ANDREW
CLAYTON, UNKNOWN AND
UNNAMED PERSONS IN THE CNMI
OFFICE OF THE ATTORNEY
GENERAL, ALEXANDRO C. CASTRO,
JOHN A. MANGLONA, TIMOTHY H.
BELLAS, PAMELA S. BROWN,
ROBERT A. BISOM, AND JAY H.
SORENSEN,

Defendants.

CIVIL ACTION NO. 05-0027

**SUPPLEMENT TO CNMI
DEFENDANTS' MOTION TO
DISMISS THIRD AMENDED
COMPLAINT (FURTHER
CITATIONS TO COMPLAINT);
CERTIFICATE OF SERVICE**

Hearing: Thursday, December 7, 2006
Time: 9:00 a.m.
Judge: Hon. Alex R. Munson

1 **COMES NOW** the Office of the Attorney General and provides this supplement
2 to its motion on behalf of the CNMI Defendants to dismiss all claims involving federal
3 question and diversity jurisdiction contained in the Third Amended Complaint with
4 prejudice, and to dismiss all remaining claims without prejudice pursuant to 28 U.S.C.
5 § 1367(c).

6 When the CNMI Defendants waived oral argument and submitted their motion on
7 the briefs, the Court had a query about which portions of the Motion to Dismiss applied to
8 which parts of the Third Amended Complaint. As stated on the record, counsel did not
9 have a copy of the Third Amended Complaint present at the hearing, but the Motion to
10 Dismiss tracks the complaint.

11 The Third Amended Complaint contains the following causes of action.

12
13 First Claim [Bisom & Sorensen] -- Civil Rights Violations (42 U.S.C. § 1983),
14 ¶¶ 211-31, pp. 42-45.

15 Second Claim [Forelli, Cotton, Bush, Clayton & Sosebee] -- Civil Rights Violations
16 (42 U.S.C. § 1983), ¶¶ 232-63, pp. 45-50.

17 Third Claim [Brown] -- Civil Rights Violations (42 U.S.C. § 1983), ¶¶ 264-74,
18 pp. 50-52.

19 Fourth Claim [Unknown person or persons] -- Civil Rights Violations (42 U.S.C. §
20 1983), ¶¶ 275-82, pp. 52-53.

21 Fifth Claim -- Intentionally Omitted, ¶¶ 283-303 deleted, p. 53.

22 Sixth Claim -- Intentionally Omitted, ¶¶ 304-17 deleted, p. 53.

23 Seventh Claim [CNMI, Clayton, Brown, Sosebee, Forelli, Bisom & Sorensen] --
24 Civil Rights Violations (42 U.S.C. § 1985), ¶¶ 318-27, pp. 53-58.
25

1 Eighth Claim [CNMI, Forelli, Brown, Clayton, Sosebee, Bisom & Sorensen] --

2 RICO Violations (42 U.S.C. §§ 1961-64), ¶¶ 328-38, pp. 58-61.

3 Ninth Claim [CNMI, through Forelli, Bush, Cotton, Clayton, Sosebee & Brown] --

4 Employment Contract Breached, Supplemental Claim, ¶¶ 339-46, pp. 62-63.

5 Tenth Claim -- Intentionally Omitted, ¶¶ 347-55 deleted, p. 63.

6 Eleventh Claim [CNMI, through Brown, Clayton, Sosebee & Forelli; Bisom &

7 Sorensen] -- Violation Civil Rights Act of 1870 and 42 U.S.C. § 1981,

8 ¶¶ 356-62, pp. 63-66.

9 Twelfth Claim -- Intentionally Omitted, ¶¶ 363-70 deleted, p. 66.

10 Thirteenth Claim -- Intentionally Omitted, ¶¶ 371-74 deleted, p. 66.

11 Fourteenth Claim [CNMI, Forelli, Bush, Clayton, Sosebee, Brown, Cotton, Bisom

12 & Sorensen] -- Intentional, Malicious, and/or Irresponsible Actions Causing

13 Damage to Plaintiff BRADSHAW's Reputation as an Employer, Supervisor,

14 and as a Person, ¶¶ 375-78, pp. 66-67.

15 Fifteenth Claim [CNMI, Bisom & Sorensen] -- Intentional, Malicious, and/or

16 Irresponsible Actions Causing Emotional and Mental Distress on

17 BRADSHAW, ¶¶ 379-82, pp. 67-68.

18 Sixteenth Claim -- Intentionally Omitted, ¶¶ 383-86 deleted, p. 68.

19 Seventeenth Claim -- Intentionally Omitted, ¶¶ 387-97 deleted, p. 68.

20
21 Accordingly, the following are the subparts of the "Discussion" portion of the
22 CNMI Defendants' argument in the Motion to Dismiss, as set forth in the table of
23 contents. Added are the claim numbers, in brackets, to which the arguments apply. Those
24 marked with a question mark are situations where it is unclear whether Plaintiff is
25 including those arguments in support of the claim.

1	A. The CNMI is Not a “Person” for Purposes of 42 U.S.C. § 1983	
2	[Claims # 1-4]	4
3	B. Alleged Violations of Criminal Statutes Provide No Basis for Civil Liability, and	
4	Therefore Provide No Basis for the Exercise of Federal Jurisdiction	
5	[Any claim, if any, based on Complaint ¶ 6]	5
6	C. Plaintiff Has Failed to State a Claim Upon Which Relief Can Be Granted for	
7	Violation of his Right to Procedural Due Process [Claim # 1, ¶ 212;	
8	Claim # 2, ¶¶ 233, 263; Claim # 3, ¶¶ 265 (?), 274; Claim # 4, ¶¶ 276, 282;	
9	Claim # 7, ¶ 319; Claim # 11, ¶¶ 357]	5
10	D. Plaintiff Has Failed to State a Claim Upon Which Relief Can Be Granted for	
11	Violation of his Right to Equal Protection [Claim # 1, ¶ 212; Claim # 2,	
12	¶¶ 233, 263; Claim # 3, ¶¶ 265 (?), 274; Claim # 4, ¶¶ 276, 282; Claim # 7,	
13	¶ 319 (?); Claim # 11, ¶¶ 357]	7
14	E. Allegations of Conspiracy and Violations of 42 U.S.C. § 1985 Must Be Plead	
15	With Particularity [Claim # 7]	9
16	F. Plaintiff’s RICO Allegations Based Upon Damages Allegedly Suffered as a	
17	Result of the <i>Bisom</i> Litigation in Local Court Fail to State a Claim	
18	[Claim # 8]	10
19	G. The Court is Without Equity Jurisdiction to Order Defendants to Investigate	
20	or Prosecute Allegations of Criminal Wrong-doing, or to Order the	
21	Appointment of a Special Prosecutor [Claim # 2, ¶ 248; Prayer for Relief,	
22	¶¶ 2-3]	13
23	H. The Attorneys General and Assistant Attorneys General Are Entitled To	
24	Absolute Prosecutorial Immunity with Respect to Certain of Plaintiff’s Claims	
25		

for Damages Relief [Claim # 2, ¶ 248; Claim # 3, ¶ 267 (second sentence);
and any other claim based on failure to investigate or prosecute] 14

I. The Attorneys General and Assistant Attorneys General Are Entitled
To Qualified Immunity with Respect Plaintiff's Claims for Relief Based Upon
Alleged Breach of Attorney-Client Relationship and Malpractice [Claims # 2-
3] 14

J. The CNMI is Not a "Citizen" for Purposes of Diversity Jurisdiction, and
Diversity Jurisdiction is Therefore Destroyed [Claims # 9, 14-15] 15

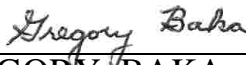
K. Plaintiff Cannot Meet the Amount in Controversy Required to Establish Subject
Matter Diversity Jurisdiction [Claims # 9, 14-15] 16

L. Following Dismissal of Plaintiff's Federal Claims, his Remaining Claims
Asserting Violations of Local Law are Due to Be Dismissed Pursuant to 28
U.S.C. § 1367(c) [Claims # 9, 14-15] 20

Respectfully submitted,

OFFICE OF THE ATTORNEY GENERAL
MATTHEW T. GREGORY # F0205
Attorney General

Dated: Monday, 11 December 2006.



GREGORY BAKA # F0199
Deputy Attorney General

Attorneys for Defendants

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(d), the undersigned declarant states as follows:

1. I am eighteen years of age or older, and I certify that I caused to be served the following documents to the last known address(es) listed below on the date(s) indicated.

**SUPPLEMENT TO CNMI DEFENDANTS' MOTION TO DISMISS THIRD
AMENDED COMPLAINT (FURTHER CITATIONS TO COMPLAINT) ;
CERTIFICATE OF SERVICE**

2. As set forth below, this service was accomplished by personal delivery; U.S. Mail; deposit with Clerk of Court (in attorney box), cf. Fed. R. Civ. P. 5(b)(2)(D); or electronic service, see Local Rule 5.1.

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Via Electronic Service

3. I declare under penalty of perjury that the foregoing is true and correct. Executed on Monday, 11 December 2006.

Gregory Baha

Deputy Attorney General
Attorney for Defendants Commonwealth of the
Northern Mariana Islands, Nicole C. Forelli,
William C. Bush, D. Douglas Cotton,
L. David Sosebee, Andrew Clayton,
and Pamela S. Brown